

PROB 12B  
(PAWP 4/16)

**UNITED STATES DISTRICT COURT**  
for the  
**WESTERN DISTRICT OF PENNSYLVANIA**

**Request for Modifying the Conditions or Term of Supervision**  
**with Consent of the Offender**  
*(Probation Form 49, Waiver of Hearing is Attached)*

Offender:	Brian Kissell	Docket No.: 2:09CR00196
Sentencing Judge:	Terrence F. McVerry, Senior United States District Judge	
Date of Original Sentence:	November 12, 2009	
Original Offense:	Possession of Child Pornography	
Original Sentence:	60 months of imprisonment; 120 months of supervised release	
Special conditions:	DNA testing, Sex Offender Registration, Sex Offender Treatment, No Contact with Minors, Computer Search, Computer/Internet Restrictions, Search/Seizure, Forfeiture, Special Assessment, Polygraph Examination, No Possession of Child Pornographic Materials	
Type of Supervision:	Supervised Release	Date Supervision Commenced: May 19, 2014
Prior Court History:	None	

**PETITIONING THE COURT**

The offender has not complied with the following condition(s) of supervision:

- ☐ To extend the term of supervision for \_\_\_\_\_ years, for a total term of \_\_\_\_\_ years.  
☒ To modify the conditions of supervision as follows:

**CAUSE**

The Court for the Western District of Pennsylvania has approved changes in the computer monitoring, sex offender, and treatment conditions, which have been incorporated in this petition to aid in the rehabilitation of the offender, to protect children, and to deter future criminal activity. The defendant signed the attached modification and is in full agreement with the recommendation.

I declare under penalty of perjury that the foregoing is true and correct.

Respectfully Submitted,

By: \_\_\_\_\_

Michael Howard

U.S. Probation Officer Specialist

Approved By: \_\_\_\_\_

Eric D. Bossart

Supervisory U.S. Probation Officer

Date: \_\_\_\_\_

10/26/2017

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**THE COURT ORDERS:**

- ☐ No Action
- ☐ The extension of supervision as noted above.
- ☐ The Modification of conditions as noted above
- ☐ Other

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United States District Judge

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Date

PROB 49  
(3/89)

# **United States District Court**

## **Western District of Pennsylvania**

### **Waiver of Hearing to Modify Conditions of Probation/Supervised Release or Extend Term of Supervision**

I have been advised and understand that I am entitled by law to a hearing and assistance of counsel before any unfavorable change may be made in my Conditions of Probation and Supervised Release or my period of supervision being extended. By "assistance of counsel," I understand that I have the right to be represented at the hearing by counsel of my own choosing if I am able to retain counsel. I also understand that I have the right to request the court to appoint counsel to represent me at such a hearing at no cost to myself if I am not able to retain counsel of my own choosing.

I hereby voluntarily waive my statutory right to a hearing and to assistance of counsel. I also agree to the following modification of my Conditions of Probation and Supervised Release or to the proposed extension of my term of supervision:

The defendant is permitted to possess or use a computer and is allowed access to the Internet. However, the defendant is not permitted to use a computer, or other electronic communication or data storage devices, including a cell phone, to access child pornography or to communicate with any individual or group for the purpose of promoting sexual relations with children. The defendant shall consent to the installation of any hardware or software to monitor any computer, or other electronic communication or data storage devices used by the defendant to confirm compliance with this condition. The defendant shall pay the monitoring costs as directed by the probation or pretrial services officer. Furthermore, the defendant shall consent to periodic unannounced examinations by the probation or pretrial services officer of any computers, cell phones, or other electronic communication or data storage devices that the defendant has access to, to confirm compliance with this condition. Additionally, the defendant shall consent to the seizure and removal of hardware and data storage media for further analysis by the probation or pretrial services officer, based upon reasonable suspicion of a violation of the conditions imposed in this case, or based upon reasonable suspicion of unlawful conduct by the defendant. Failure to submit to the monitoring or search of computers and other electronic communication or data storage devices used by the defendant may be grounds for revocation.

If the defendant's employment requires the use of a computer, the defendant may use a computer in connection with the employment approved by the probation or pretrial services officer, provided the defendant notifies their employer of the nature of the conviction or charge. The probation or pretrial services officer shall confirm compliance with this notification requirement.

The defendant shall provide the U.S. Probation Office with accurate information about the defendant's entire computer system (hardware or software) and other electronic communication or data storage devices or media to include all passwords used and the name of the Internet Service

Provider(s). The defendant also shall abide by the provisions of the Computer Restrictions and Monitoring Program approved by the Court.

The defendant shall consent to the installation of any hardware or software to monitor the defendant's computer(s) and other electronic communication or data storage devices or to prevent access to the Internet. The defendant shall pay the monitoring costs as directed by the probation or pretrial services officer. The defendant shall consent to periodic inspection of any such computer(s) or other electronic devices, including cell phones, to confirm adherence to this condition. Furthermore, the defendant shall consent to the seizure and removal of hardware and data storage media for further analysis by the probation or pretrial services officer, based upon reasonable suspicion of a violation of the conditions imposed in this case, or based upon reasonable suspicion of unlawful conduct by the defendant. Failure to submit to the monitoring or search of computers and other electronic communication or data storage devices used by the defendant may be grounds for revocation.

The defendant shall not possess or access with intent to view any materials, including pictures, photographs, books, writings drawings, videos, or video games depicting and/or describing child pornography as defined at 18 U.S.C. § 2256(8), or obscene visual representations of the sexual abuse of children as defined at 18 U.S.C. § 1466A.

The defendant shall not possess any materials, including pictures, photographs, books, writings drawings, videos, or video games depicting and/or describing sexually explicit conduct as defined at 18 U.S.C. § 2256(2).

With the exception of brief, unanticipated and incidental contacts, to include the defendant's place of employment and/or volunteer activity, the defendant shall not associate with children under the age of 18, except in the presence of an adult who is aware of the nature of the defendant's history, characteristic and/or conviction(s) and has been approved by the probation officer.

The defendant shall participate in a mental health and/or sex offender treatment program, approved by the probation officer, until such time as the defendant is released from the program by the Court. The defendant shall abide by all program rules, requirements, and conditions of the sex offender treatment program, including submission to polygraph testing; said testing shall continue throughout the term of supervision in order to monitor and ensure compliance with the conditions of supervision. Further, the defendant shall be required to contribute to the costs of services for any such treatment in an amount determined by the probation officer, but not to exceed the actual cost. The Probation Office is authorized to release the defendant's presentence report to the treatment provider if so requested.

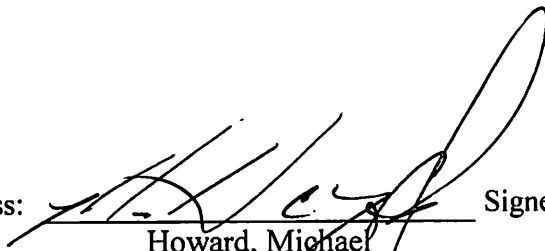
As required by 18 U.S.C. §§ 3563 (a) (8) and 3583 (d), and the Sex Offender Registration and Notification Act (SORNA, 42 U.S.C. §16901 et seq.), the defendant shall report the address where he will reside and any subsequent change of residence to the probation officer responsible for defendant's supervision, and further shall register as a convicted sex offender in any state where he resides, is employed, carries on a vocation, or is a student.

The defendant shall not enter into a rental agreement and/or purchase computers, cell phones, or electronic communication or data storage devices without the consent of the probation officer. Furthermore, the defendant shall not make excessive and/or unexplained purchases of items ordinarily related to children under the age of 18, without approval of the probation officer.

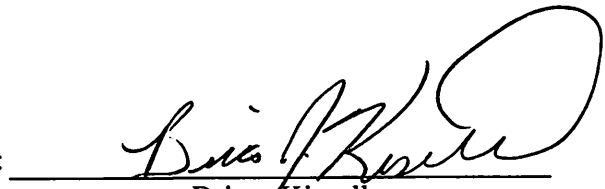
The defendant shall provide the probation officer with access to any requested financial information.

The defendant shall not frequent and/or loiter within 500 feet of places where children congregate on a regular basis, such as, but not limited to, schools; playgrounds; children's toy and/or clothing stores; video arcades; daycare centers; swimming pools; zoos; amusement parks, or other places primarily used or that can reasonably be expected to be used by children under the age of 18, without prior permission of the probation officer.

Witness:

  
Howard, Michael  
United States Probation Officer

Signed:

  
Brian Kissell  
Probationer or Supervised Releasee

8/16/2017

Date